

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:18-CV-00534-FDW-DSC

ERNEST KING,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
AMAZON CORPORATION)	
REGINA THOMAS,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on Plaintiff's Motions for Entry of Default, (Doc. No. 21), and Enforcement of Entry of Default. (Doc. No. 36). Defendant Amazon Inc. ("Amazon") has responded to the motions and the matter is now ripe for review. (Doc. No. 38). For the reasons stated below, the Court DENIES Plaintiff's Motions.

Plaintiff filed their complaint on October 2, 2018, alleging that Defendants are liable of "property flipping" and "false documentation" in relation to the manuscript "From Brooklyn to the Grave." (See generally Doc. No. 1). Both Defendants Amazon and Thomas were served in November 2018. (Doc. No. 18). Nonetheless, neither Defendant filed an answer or any other response in this lawsuit. On December 14, 2018, Plaintiff moved for an entry of default against Defendant Thomas. (Docs. No. 21). On February 11, 2019, the Court issued a show cause order noting that neither Defendant had answered the complaint. (Doc. No. 29). Defendant Amazon subsequently filed an answer to the complaint on February 12, 2019, (Doc. No. 33), as did Defendant Thomas on February 20, 2019. (Doc. No. 34). Plaintiff now moves for enforcement of entry of default for both Defendants. (Doc. No. 36).

Rule 55(a) of the Federal Rules of Civil Procedure provides: “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party’s default.” The Fourth Circuit has “repeatedly expressed a strong preference that, as a general matter, defaults be avoided and that claims and defenses be disposed of on their merits.” Colleton Preparatory Acad., Inc. v. Hoover Universal, Inc., 616 F.3d 413, 417 (4th Cir. 2010). Because both Defendants have filed answers in this case, entry of default would be inappropriate.

The Court hereby DENIES Plaintiff’s Motion for Entry of Default, (Doc. No. 21), and DENIES Plaintiff’s Motion for Enforcement of Entry of Default. (Doc. No. 36). The Court’s previously set schedules in this case remain in effect with respect to all parties.

IT IS SO ORDERED.

Signed: March 25, 2019



Frank D. Whitney
Chief United States District Judge

